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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,392	03/01/2002	Delmar Bleckley	PB40001	1313
7590		12/22/2003	EXAMINER	
Philip H. Burns, IV		CHENG, JOE H		
460 Grant Street		ART UNIT		
Atlanta, GA 30312		PAPER NUMBER		
		3713		
DATE MAILED: 12/22/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/086,392

Applicant(s)

BLECKLEY ET AL.

Examiner

Joe H. Cheng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 April 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the "control pin 515" as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: The term "input terminal 502" on Pg. 8, line 20 and "audio amplifier." On Pg. 9, line 22 should be respectively recited as --input terminal 501-- and --audio amplifier 517.--, so as to clarify the typographic errors. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms "a the video image" (as per claim 1, line 6), "region the, alarm" (as per

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claim 1, line 10) and “making an athletic motion;” (as per claim 14, line 14) should be recited respectively as --the video image--, --region, the alarm-- and --capturing a video of the person making an athletic motion; --, so as to clarify the confusion. In addition, the antecedent bases for “the user” (as per claims 4 and 8) has not been clearly set forth. Further, it is not understood as to whether the “target manipulation device” (as per claim 10) is the same “target manipulation device of the alarm mean” (as per claim 12). Furthermore, a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by “such as” and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). Hence, the phrases “for example” (as per claim 7) render the claim indefinite because they are unclear whether the limitation(s) following the phrase are part of the claimed invention and they are alternate expressions and are subject to more than one interpretation. Regarding to claims 2, 3, 5, 6, 9, 11 and 13 are rejected for incorporating the above errors from their respective parent claims by dependency.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-4 and 6-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Evensen (U.S. Pub. No. 2003/0054327 A1). Figs. 1-12 of Evensen broadly discloses the system and method for teaching a person executing an athletic motion comprising means for capturing a video image (14, 16, 38, 40, 42) of the person executing the athletic motion of different activities, such as golf or base ball, mean for processing the video image (18, 44) of a predetermined spatial region within the video image of a preferred execution area of the athletic motion, such as the software executed in the computer, means for comparing the current video image to a previous motion (see Figs. 9A-11), adjusting means/user interface means (18, 44, 46), for altering the position and dimension of the predetermined spatial region to suit a particular athletic motion, target manipulation device(52, 54), such as golf club or the baseball bat, video means (22, 48) and alarm means (24, 58) for generating feedback to the person executing the ergonomic motion.

*Allowable Subject Matter*

7. Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Morris (U.S. Pat. No. 3,895,366) - note Figs. 1-5;  
Connelly (U.S. Pat. No. 4,337,049) - note Figs. 1-7;  
Thornton (U.S. Pat. No. 4,375,674) - note Figs. 1-15;  
Harris (U.S. Pat. No. 4,545,576) - note Figs. 1-6;  
Ozaki et al (U.S. Pat. No. 4,713,686) - note Figs. 1-6;  
Mann (U.S. Pat. No. 4,891,748) - note Figs. 1-19J;  
O'Leary et al (U.S. Pat. No. 5,249,967) - note Figs. 1-8;  
Lubell et al (U.S. Pat. No. 5,797,805) - note Figs. 1-11;  
Bizzi et al (U.S. Pat. No. 5,846,086) - note Figs. 1-18C;  
Baum (U.S. Pat. No. 5,868,578) - note Figs. 1-11D;  
Iannazo et al (U.S. Pat. No. 5,882,204) - note Figs. 1-8;  
Burns (U.S. Pat. No. 5,904,484) - note Figs. 1-8;  
Brostedt et al (U.S. Pat. No. 5,984,684) - note Figs. 1-10;  
Fishman et al (U.S. Pub. No. 2002/0064764 A1) - note Figs. 1-8;  
French et al (U.S. Pat. No. 6,430,997 B1) - note Figs. 1-30;

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Katayama (U.S. Pub. No. 2002/0164567 A1) - note Figs. 1-10;

Mengoli (U.S. Pat. No. 6,514,081 B1) - note Figs. 1-9B;

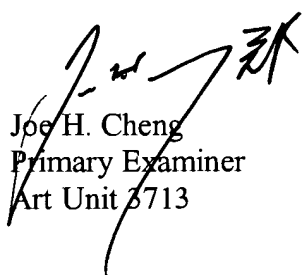
McNitt et al (U.S. Pat. No. 6,537,076 B2) - note Figs. 1-10.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe H. Cheng whose telephone number is (703)308-2667. The examiner can normally be reached on Tue.- Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on (703)308-1327. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9306 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Joe H. Cheng  
December 8, 2003

  
Joe H. Cheng  
Primary Examiner  
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